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In re Application of	:	DECISION ON
Colin Roy Tarry	:	
Application No.: 10/552,221	:	
PCT No.: PCT/GB2004/002957	:	PETITION UNDER
Int. Filing Date: 08 July 2004	:	
Priority Date: 12 July 2003	:	37 CFR 1.10 (e)
Attorney's Docket No.: 198/43889/Case 522- PCT-US	:	
For: CONDUCTIVE MATERIALS	:	

This is in response to applicant's "RENEWED PETITION UNDER 37 CFR 1.10(e)" filed 04 March 2008, requesting that the "RESPONSE TO NOTIFICATION ... DESIGNATED/ELECTED OFFICE (DO/EO/US)" be considered as received in the United States Patent and Trademark Office (USPTO) timely.

**BACKGROUND**

In a decision from this Office on 19 February 2008, the petition filed on 29 January 2008 because items (2) – (4) of 37 CFR 1.10(e) were not met.

On 4 March 2008, applicant filed the current renewed petition, which includes a true copy of the Express Mail mailing label and the Response which identifies the Express Mail mailing number.

**DISCUSSION**

37 CFR 1.10(e) states:

(e) Any person mailing correspondence addressed as set out in § 1.1(a) to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the USPS, but not received by the Office, may petition the Commissioner to consider such correspondence filed in the Office on the USPS deposit date, provided that:

- (1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;
- (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";
- (3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and
- (4) The petition includes a statement which establishes, to the satisfaction of the Commissioner, the original deposit of the correspondence, and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence original Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

Applicants has now satisfied items (1) - (4) of 37 CFR 1.10(e).

With regard to item (2), a review of the application file indicates that the number of the Express Mail mailing label "EV389414962US" was placed on the correspondence prior to the original mailing by Express Mail on 25 August 2006.

With regard to item (3), applicant has provided a copy of the originally purported a copy of the Express Mail label "EV389414962US" showing the "date-in" as 25 August 2006.

With regard to item (4), applicant has provided the requisite statement that applicant submits true copies of the documents submitted on 25 August 2006.

The petition is deemed to satisfy requirements (1), (2), (3) and, (4) under 37 CFR §1.10(e).

For the above reasons, it would be appropriate to grant the petition under 37 CFR 1.10(e) at this time.

Accordingly, the date of receipt for the executed Declaration is 25 August 2006.

**CONCLUSION**

For the reasons above, the petition under 37 C.F.R. §1.10(e) is **GRANTED**.

The Notification of Abandonment (PCT/DO/EO/909) mailed 22 January 2008 was in error and is hereby **VACATED**.

The application is being returned to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision. The 35 U.S.C. § 371(c)(1), (c)(2), and (c)(4) date is **25 August 2006**.



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